

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**SECURITIES INVESTOR PROTECTION  
CORPORATION,**

**Plaintiff-Applicant,**

**v.**

**BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,**

**Defendant.**

**In re:**

**BERNARD L. MADOFF,**

**Debtor.**

**Adv. Pro. No. 08-01789 (SMB)  
SIPA Liquidation  
(Substantively Consolidated)**

**DECLARATION IN  
OPPOSITION TO THE  
TRUSTEE'S MOTION TO  
AFFIRM APPLICATION OF  
THE NET INVESTMENT  
METHOD TO THE  
DETERMINATION OF  
CUSTOMER TRANSFERS  
BETWEEN BLMIS  
ACCOUNTS**

I, BARBARA K. GABA, declare pursuant to 28 U.S.C. § 1746, that the following is true based upon my personal knowledge and documents I possess:

1. I was a partner of the Gaba Partnership (the "Partnership"), along with Richard M. Gaba. The Partnership was formed on January 4, 1993 pursuant to a written agreement between the Partners. The purpose of the Partnership was to invest the funds of the Partners.

2. On January 6, 1993, a Partnership account was opened with Bernard L. Madoff bearing Account No. 1ZA901 (the "Account"). The Partnership opened the Account for the purpose of each of the Partners investing in Madoff

and each of the Partners deposited funds with Madoff for the purpose of purchasing securities.

3. The Partnership maintained the account following December 4, 2000 when Madoff formed Bernard L. Madoff Investment Securities LLC (“BLMIS”).

4. During the period from January 6, 1993 through December 11, 2008, the Partners deposited a total of \$1,664,051.63 into the Account and withdrew a total of \$1,357,500 from the Account.

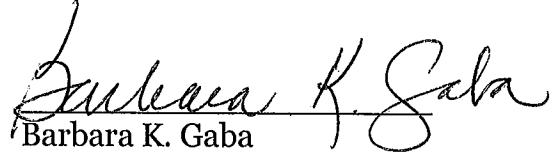
5. However, one of the deposits was made on October 1, 2003 from Madoff Account No. 1ZA52430 in the amount of \$785,551.63, of which the Trustee is crediting the Partnership with zero. See the Trustee’s Determination Letter annexed hereto as Exhibit A, at 4-5.

6. This deposit represented a distribution from a trust established for the benefit of Dora L. Gaba, under the last will and testament of her husband, Herman Gaba, on whose estate all required federal and state estate taxes were paid, based upon the account balance in Herman Gaba’s account at the time of his death.

7. Income taxes on this trust had been paid annually throughout the years during the trust’s existence. There was no possibility, under the Internal Revenue Code, to obtain a refund of the taxes paid. In view of this, I filed an objection to the Trustee’s Determination Letter. See Exhibit B hereto.

8. I declare under penalty of perjury that the aforesaid facts are true  
and correct.

May 14, 2014

  
Barbara K. Gaba